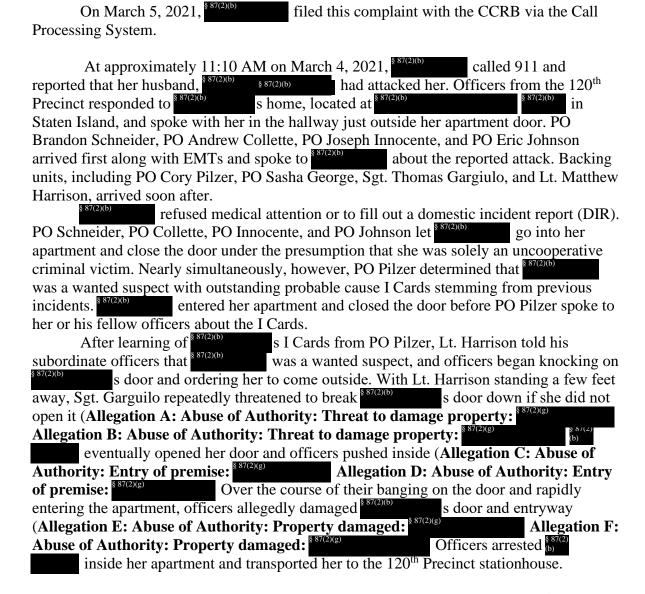
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	☐ Discourt.	☐ U.S.
Matthew Chaves		Squad #16	202101477	Ø	Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		P	recinct:	18 Mo. SOL	EO SOL
Thursday, 03/04/2021 11:20 AM		§ 87(2)(b)			120	9/4/2022	9/4/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Time	Received at CCI	RB
Fri, 03/05/2021 11:27 PM		CCRB	Call Processing System		Fri, 03/05/	2021 11:27 PM	
Complainant/Victim	Type	Home Addre	ess				
Witness(es)		Home Addro	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. SGT Thomas Garguilo	4371	949006	120 PCT				
2. LT Matthew Harrison	00000	930323	120 PCT				
Witness Officer(s)	Shield N	o Tax No	Cmd Name				
1. DT3 Michael Damico	7100	932511	060 DET				
2. POF Nicole Fox	22143	962410	060 PCT				
3. POM Andrew Collette	29827	967012	120 PCT				
4. POM Brandon Schneider	26859	967328	120 PCT				
5. POM Joseph Innocente	14311	956761	120 PCT				
6. POM Eric Johnson	07704	956777	120 PCT				
7. POF Sasha George	05267	958623	120 PCT				
8. POM Cory Pilzer	09302	953254	120 PCT				
9. POM Gregory Carosella	21200	968996	120 PCT				
10. POM Michael Kirchhoffer	15215	956023	120 PCT				
11. SGT Antonio Cannata	02800	943044	120 PCT				
12. POM James Krebs	06991	952951	120 PCT				
13. POM Noor Rahman	04612	954256	120 PCT				
14. SGT John Pedersen	05153	951026	120 PCT				
Officer(s)	Allegatio	n			Inve	stigator Recon	nmendation
A.LT Matthew Harrison	Abuse: L § 87(2)(b)	ieutenant Matthew Har	rison threatened to d	lama	ge		
B.SGT Thomas Garguilo	Abuse: S § 87(2)(b)	ergeant Thomas Garguins property.	ilo threatened to dan	nage			
C.LT Matthew Harrison	Abuse: L § 87(2)(b)	ieutenant Matthew Har	rison entered in Staten Island.				
D.SGT Thomas Garguilo	Abuse: S § 87(2)(b)	ergeant Thomas Gargui					
E.LT Matthew Harrison		ieutenant Matthew Har					

Officer(s)	Allegation	Investigator Recommendation
F.SGT Thomas Garguilo	Abuse: Sergeant Thomas Garguilo damaged \$87(2)(b) s	
	property.	

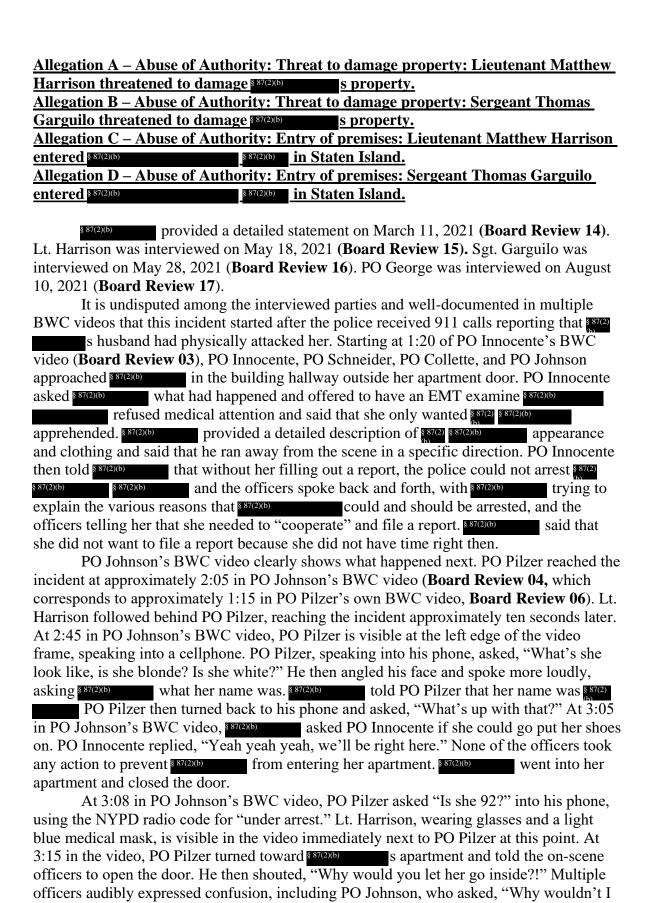
Case Summary



The investigation obtained BWC videos from PO Schneider (Board Review 01), PO Collette (Board Review 02), PO Innocente (Board Review 03), PO Johnson (Board Review 04), Lt. Harrison (Board Review 05), PO Pilzer (Board Review 06), PO George (Board Review 07), PO Noor Rahman (Board Review 08), PO James Krebs (Board Review 09), Sgt. Garguilo (Board Review 10), Sgt. Antonio Cannata (Board Review 11), and Sgt. John Pederson (Board Review 12).

The investigation also obtained 27 short video clips of the incident from a motion-sensitive surveillance camera mounted outside s apartment door (**Board Review 13**). While these videos capture portions of the incident and are consistent with the other available evidence, they do not offer a coherent record of the general incident timeline or the FADO allegations.

Findings and Recommendations



let her go inside?" PO Pilzer responded, "She's collared...She has three I Cards." PO Johnson replied, "I'm not supposed to know that?!"

PO Pilzer's and Lt. Harrison's BWC videos (**Board Review 06** and **Board Review 05**) offer the clearest recordings of what happened next. At 3:00 in both videos, Lt. Harrison waved and called PO Pilzer over to speak with him. PO Pilzer told Lt. Harrison that another officer (who was not on scene during this incident) had prepared a criminal complaint report ("a 61") for structure on a previous date, but structure had provided her name as structure on a previous date, but structure on the NYPD's computer systems and determined it was a false name. This officer also learned structure in turn learned this information from the off-scene officer over the phone during the current incident. At 4:25 in Lt. Harrison's BWC video (**Board Review 05**), PO Pilzer showed Lt. Harrison his cellphone screen, which displayed a photo of structure.

The officers began debating whether to forcibly enter savenum s apartment. Starting at 4:50 in Lt. Harrison's BWC video (**Board Review 05**, which corresponds to 2:33 in Sgt. Garguilo's BWC video, **Board Review 10**), Sgt. Garguilo and Lt. Harrison had the following dialogue:

Sgt. Garguilo: "What's going on here?"

Lt. Harrison: "Says she gave a fake name, she's wanted on three I Cards-"

Sgt. Garguilo (interrupting): "Ooh!"

Lt. Harrison: "We just found out after she went back to put her shoes on and went inside."

Sgt. Garguilo: "Ooooh I get to kick the door open!"

Lt. Harrison: "No, we're not gonna kick the door open."

Sgt. Garguilo: "Why?! Come on..."

Lt. Harrison: "Stop. I had to pull you off a ledge once already."

St. Garguilo: "So?! So what? I just wanna break the door I don't give a shit if she's there or not."

It is undisputed and clearly documented in multiple BWC videos that once the officers all knew that was a wanted suspect, they repeatedly banged on her door and ordered her to come outside. Starting at 11:07 in PO Schneider's BWC video (Board Review 01), Sgt. Garguilo said, "Ma'am, you gotta open this door now or we're gonna rip the door off its hinges." At 11:15 in the video, PO George began kicking the door loudly with her right foot while Sgt. Garguilo said, "Miss you gotta open the door or I'm gonna break the door down." Both PO George and Sgt. Garguilo continued to threaten to break the door down, and Sgt. Garguilo loudly pretended to use his radio to call for ESU's help in forcibly entering the apartment. Lt. Harrison's BWC video shows that he stood directly next to Sgt. Garguilo during this portion of the incident (8:30 of Board Review 05).

In his interview, Lt. Harrison said he and PO Pilzer learned that was a wanted suspect while was still outside her apartment, standing in the building hallway. As described above, this is contradicted by the BWC videos, which show that PO Pilzer only confirmed status as a suspect as she entered her apartment and closed the door. The video further shows that PO Pilzer only relayed his information about to Lt. Harrison and other officers once status as a leady inside her

apartment.

In his interview, Lt. Harrison said that because \$\frac{87(2)(6)}{2}\$ was wanted on probable cause I Cards and fled back into her apartment, the officers had the authority to take her door or enter her apartment without consent. No further factors gave the officers this authority. From Lt. Harrison's perspective, the presence of an arrest warrant would not have made any difference. Because \$\frac{83(2)(6)}{2}\$ started the incident outside her home and then entered it, she had no legal protection from officers entering to arrest her. Lt. Harrison said that if someone runs into their apartment while officers are dealing with them or chasing them, the officers can enter and apprehend them. Lt. Harrison specifically denied the presence of escalating factors such as the possible presence of weapons (which he had no reason to suspect were present), reports that \$\frac{83(2)(6)}{2}\$ was unusually dangerous (her I Cards were for routine domestic offenses, not assaulting an officer or anything similar), or evidence that \$\frac{87(2)(6)}{2}\$ was a threat to herself.

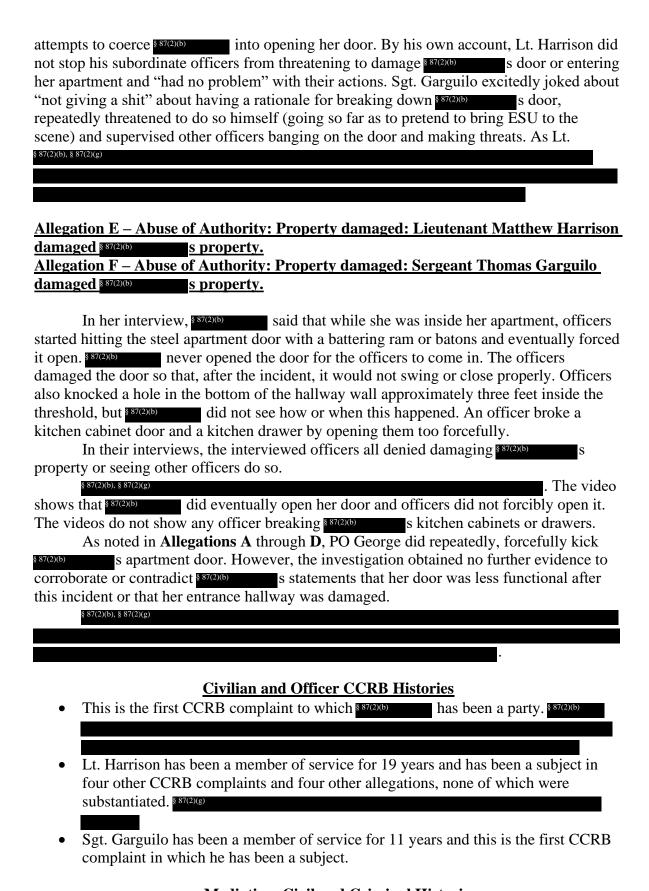
In his interview, Sgt. Garguilo said that he believed that the officers had the legal authority to take the door down because of the I-Cards for sarrest and the fact that she was still detained when she went back into her apartment. When shown his BWC video from 2:32 to 3:08. Sgt. Garguilo confirmed that the footage showed the portion of the incident where he made a joke about breaking down the door and said, "I just want to break the door down I don't give a shit." He also clarified that Lt. Harrison's comment about a ledge was a joke about a prior, unrelated incident.

In his interview, Lt. Harrison stated that while he did not recall instructing his subordinates to enter \$87(2)(6) and a subordinate state of the subordinate state of the

Under the doctrine of hot pursuit, a suspect may not defeat an arrest which has been set in motion in a public place by the expedient of escaping to a private place. People v. Hunter, 92 A.D.3d 1277, 1279-80 (2012) (citing United States v. Santana, 427 U.S. 38, 43 (1976) (citing United States v. Watson, 423 U.S. 411 (1976)); People v. Levan, 476 N.Y.S.2d 101 (1984)). However, the claim of hot pursuit is unconvincing when there is no immediate or continuous pursuit of a suspect from the scene of a crime. People v. Hunter, 92 A.D.3d 1277, 1280 (2012) (citing Welsh v. Wisconsin, 466 U.S. 740, 753 (1984)). (Board Review 18). Absent exigent circumstances, officers may not enter a home to make an arrest without a warrant, even when they have probable cause. Payton v. New York, 445 U.S. 573 (1980). (Board Review 19).

The available evidence clearly shows that this incident did not fall within the legal paradigm of hot pursuit. Officers did not pursue from the scene of a crime, as by all accounts her I Cards stemmed from prior, unrelated incidents. Rather, officers first spoke to struck because she was the reported victim of a crime, and they freely allowed her to enter to her apartment. The subject officers' statements notwithstanding, the BWC video shows that not only did officers let struck leave the public hallway and enter her private residence, but that all the officers on scene except for PO Pilzer had no idea that struck was wanted at this point. None of the officers, including PO Pilzer, took any actions to detain or arrest struck before she went inside. By the time the officers began to seek struck a sapprehension, they were simply standing outside her locked door without a warrant. As shown in the collected evidence and specifically acknowledged by both subject officers, there were no exigent or emergency circumstances that factored into their decision to enter.

While Lt. Harrison did not bang on \$87(2)(b) s door or verbally threaten to break it down himself, he stood immediately nearby as Sgt. Garguilo led officers in repeated



Mediation, Civil and Criminal Histories

nvestigator: Matt Chaves SI Matt Chaves 05/04/2022 Signature Print Title & Name Date Squad Leader: Print Title & Name Date Reviewer:	 This com 	plaint was unsuitable f	or mediation.	
quad No.: 16 nvestigator: Matt Chaves SI Matt Chaves 05/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date	§ 87(2)(b)			
quad No.: 16 vestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date				
uad No.: 16 vestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date uad Leader: Print Title & Name Date vestigator: Print Title & Name Date				
uad No.: 16 Vestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date uad Leader: Print Title & Name Date viewer: Date				
uad No.: 16 Vestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date uad Leader: Print Title & Name Date viewer: Date				
uad No.: 16 vestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date uad Leader: Print Title & Name Date viewer: Date				
yestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date	8 87(2)(b)			
vestigator: Matt Chaves SI Matt Chaves 05/04/2022 Signature Print Title & Name Date uad Leader: Print Title & Name Date sviewer:	8 87(2)(0)			
vestigator: Matt Chaves SI Matt Chaves 05/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date				
vestigator: Matt Chaves SI Matt Chaves 05/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date				
Avestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date Quad Leader: Print Title & Name Date Signature Print Title & Name Date				
Signature Print Title & Name Date Squad Leader: Print Title & Name Date Reviewer: Print Title & Name Date				
nvestigator: Matt Chaves SI Matt Chaves O5/04/2022 Signature Print Title & Name Date quad Leader: Print Title & Name Date Signature Print Title & Name Date	guad No.: 16			
Signature Print Title & Name Date quad Leader: Signature Print Title & Name Date eviewer:	1			
quad Leader: Signature Print Title & Name Date Quad Leader: Print Title & Name Date Deviewer:	vestigator:	Matt Chaves	SI Matt Chaves	05/04/2022
quad Leader: Signature Print Title & Name Date	vestigator			Date
Signature Print Title & Name Date eviewer:		~- 6		
Signature Print Title & Name Date eviewer:				
eviewer:	quad Leader:			
		Signature	Print Title & Name	Date
	aviawar:			
	TVIEWEI.	Signatura	Print Title & Name	Date